



**BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking into the Review of
The California High Cost Fund B Program.

R.06-06-028

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE ASSIGNED COMMISSIONER'S RULING
REGARDING THE SCOPE AND SCHEDULING OF PHASE II ISSUES**

I. INTRODUCTION

Pursuant to the extension of time granted by ALJ Pulsifer via his e-mail dated November 15, 2007, The Utility Reform Network (TURN) hereby files its Reply Comments in the above-captioned proceeding, including the attached Declaration of Trevor R. Roycroft.

The issues associated with revising high cost fund support are critically important for Californians. The auction process the Commission intends to pursue is extremely complex and has not been utilized anywhere else in the world for the purpose to which it will be put here. While the Federal Communications Commission (FCC) Joint Board on Universal Service, in its long-awaited recommended decision, noted that reverse auctions may offer advantages over its current high cost distribution mechanism, it urged the FCC to explore such auction mechanisms while offering little (if anything) in terms of specific proposals. Thus, California will be a pioneer in the use of reverse auctions to determine high cost support for areas already served by incumbent telecommunications carriers.

Put another way, the CPUC is conducting a unique experiment and customers in California's high cost areas are the guinea pigs. The Commission must take care to ensure that the reverse auction is as carefully constructed as possible and have procedures in place to protect customers in high cost areas if the experiment goes awry. Implementing a reverse auction process raises thorny issues for which there are currently no concrete answers. For example, there are significant issues that arise with respect to the geographic area that would be subject to auction. For instance, what would happen if a community served by a current ILEC exchange comprising 10 Census Block Groups (CBGs) is subject to auction, but bids only come in to serve seven out of the 10 CBGs? There is currently no clear answer to this question, and many others like it. TURN supports those parties who suggested that it would be prudent for the Commission to conduct a pilot project prior to a statewide implementation of a reverse auction process. A pilot project would help the Commission identify similar potential problems and devise solutions. In any pilot project, it is imperative that the Commission adopt safeguards to ensure that customers who are in the area(s) covered by such a program do not experience a decline or disruption in service.

Many parties commented on the possible need to redefine basic service, the objective of competitive and technological neutrality and intermodal bidders and urged the Commission to set its auction requirements with those objectives taking priority. These parties have it backwards. The Commission's top priority should be to ensure that customers in high cost areas who currently receive high quality, affordable, and reliable service over wireline networks do not receive an inferior and more costly service as a result of its reverse auction process or any other steps taken to reform the high cost funding mechanism.

It would be unacceptable, harmful to public safety, and a failure on the part of the Commission, if customers who currently receive service were to lose it due to a failure to adequately address the issue

of how to define the geographic unit that is up for bid, e.g., if bidders only wanted to serve part of an existing territory. It would be equally unacceptable and just as harmful to the public if the Commission set a standard for bidding that would provide customers with less reliable or otherwise inferior service compared to what they receive today. The Commission should solicit the input of the customers who will be utilizing the service before deciding that being able to place and receive calls inside a building, having access to multiple toll carriers or receiving a telephone directory are no longer essential and need not be included in the requirements for universal service, the Commission should solicit the input of the customers who will be utilizing the service.

The issue of affordable rates was raised by several parties. In D.07-09-020, the Commission stated that it was concerned about rate shock and intended to ensure that it meets its statutory requirement to ensure that rates are just, reasonable and affordable by setting a target cap for each of the four URF carriers. As TURN and many other parties pointed out, a target rate is an essential component of an auction process. The target rate must be affordable, in order to comply with both state and federal law. To date, the Commission has taken no evidence about what would constitute an affordable rate for the vast majority of subscribers in high cost areas (or low cost areas, for that matter). Any attempt to reach a determination of what constitutes an “affordable” rate based on the scant record in this proceeding would amount to glorified dart throwing. The Commission should adopt the proposal of both TURN and DRA to commission Field Research to perform a slightly modified affordability study and permit parties to submit evidence pertaining to affordability of telecommunications services in California. The current rate caps should remain in effect until such an analysis is complete. If, despite the lack of a record, the Commission decides to permit increases to the existing rate caps, it should

follow the approach of the New York Commission and limit the increases to the 10-12% per year authorized by the New York Commission.¹

TURN encourages the Commission to carefully evaluate recent actions at the Federal level which may impact universal service issues in California. While TURN has not had the time to fully digest the Federal-State Joint Board's recent Recommended Decision, it is notable that the Joint Board has recommended the creation of three funds—a “provider of last resort” fund, a “mobility” fund, and a “broadband” fund.² The Joint Board recognizes that the states continue to play a critical role in the satisfaction of Federal universal service objectives.³ Thus, this Commission should move forward in its reform of the CHCF-B with an eye for potential complementarities or conflicts with ongoing Federal action. For example, the Joint Board proposal includes a new “mobility” and “broadband” funds.”⁴ These funds are designed to encourage the deployment of facilities which enable the corresponding services in unserved areas. Thus, these funds may have, over the longer term, an impact on entry in future auction processes in California, as they may encourage new facilities based entry in unserved areas. The Commission should take care not to adopt policies that will impede future potential entrants for lengthy periods of time, such as AT&T's proposal to establish COLR license periods of 15 years, which would undermine this potential future competition. The Commission should strive to ensure that the effort undertaken in California is, to the greatest extent possible, complementary to the efforts undertaken by the FCC so that Californians can receive the maximum benefits of universal service high cost reform.

¹ TURN Opening Comments, p. 48.

² *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45*, Recommended Decision, November 20, 2007, ¶11.

³ *Id.* ¶45.

⁴ *Id.* ¶63 and ¶55.

II. THE SERVICE SUBJECT TO BID SHOULD NOT BE REDEFINED IN SUCH A MANNER AS TO PROVIDE CUSTOMERS WITH A LOWER GRADE OF SERVICE THAN THEY CURRENTLY RECEIVE.

A. Commission Must Solicit Broad-Based Input on Proposals to Redefine Universal Service.

As discussed by TURN in its opening Comments, if the Commission is to pursue the auction process as the means of determining funding levels in high cost areas, the definition of the service offering subject to auction is critical.⁵ AT&T indicates that the Commission should “consider updating the definition of basic service to ensure that other technologies can be used to provide universal service.”⁶ DRA suggests that the Commission might revisit its existing requirements for universal service.⁷ Sprint/Nextel offers a revision to the Commission’s current definition.⁸ As discussed below, each of these proposals contains pitfalls that the Commission must avoid. The only way to ensure that it is moving in the right direction is to give careful consideration to the needs of specific customers.

The Commission should not revise the definition of universal service without giving careful consideration to the needs of customers. Proposed revisions should be clearly set forth for comment not only by parties, but, also, the public to ensure that essential aspects of this fundamental service do not disappear. Californians who would be affected by the changes should have the opportunity to be fully informed about the proposals on the table and to express any comments or concerns. The Commission should not simply take the two rounds of comments in this proceeding and reach a decision about changing the definition of basic service behind closed doors without receiving input from the people who use the service. Revisions to the CHCF-B should not result in the telephone service being provided to Californians becoming inferior to the service they currently receive.

⁵TURN Comments, p. 12.

⁶AT&T Comments, p. 2.

⁷DRA Comments, p. 9.

B. The Service Subject to Bid Should Not Be Inferior to the Service Currently Provided to Customers.

Several parties argue that the definition of universal service for CHCF-B purposes could or should be altered to permit providers utilizing different technologies to participate in auctions. While it is true, as Time Warner and others argue, that technological and competitive neutrality are objectives of this process,⁹ the primary objective must be to ensure that customers continue to receive high quality, reliable service. Bidders utilizing different technologies should be required to meet this standard and should be required to upgrade their networks if it is necessary to provide satisfactory service.

For example, wireless carriers are touted as alternatives to wireline carriers. However, wireless networks do not currently provide the same quality of service to all customers within their service territories. This is amply demonstrated in the attached Declaration of Dr. Trevor Roycroft and in Attachment 1 to TURN's Reply Comments on the Proposed Decision of Commissioner Chong in the Phase 1 of this proceeding. The web sites of both Sprint/Nextel and T-Mobile (as well as other wireless carriers) provide maps showing signal strength in various portions of their respective service territories. Currently, on their web sites, the wireless carriers themselves admit that the strength of their signals varies considerably within CBGs, let alone within service areas covering the same territory as wireline exchanges. In some cases, signals cannot be received inside of buildings. In other instances, the actual strength of the signal is unknown, even to the carrier. A carrier which cannot provide reliable, good quality service to all customers within a territory for which it is bidding should not be eligible to bid unless and until it provides a detailed plan demonstrating the steps it would take to improve service, and the Commission must have a process for enforcing this requirement and ensuring that the quality of service would be satisfactory.

⁸Sprint/Nextel Comments, p. 30.

⁹ Time Warner Comments, p. 8-9.

Sprint/Nextel's approach is precisely the wrong way to address the issue of defining the service offering. Sprint/Nextel's approach offers a bifurcated definition of basic service—one version of basic service for wireless and VoIP carriers, and another, more stringent definition of basic service for any carrier that is not a wireless and VoIP provider. Such an approach would not be appropriate under any circumstances, but especially in the context of an auction. Essentially, by defining a lower grade of service, and higher revenue opportunities, such a bifurcated definition of basic service would tilt the bidding in favor of wireless and VoIP providers.

For example, if wireless carriers are allowed to charge measured service rates, and other carriers are not, then wireless carriers will expect to earn more revenues from a winning bid, and thus would likely be the auction winner, even if another carrier, for example the ILEC, was equally efficient. Furthermore, the ILEC would not have the same revenue opportunity as a wireless carrier as, under Sprint/Nextel's approach, the ILEC would need not only to provide higher quality service, but would also be required to offer a flat-rate option. Likewise, Sprint/Nextel's proposal to enforce equal access for toll on all carriers other than wireless and VoIP providers will generate higher revenues for wireless and VoIP providers, and lower revenues for other carriers. Furthermore, basic service is currently defined by the Commission as a multidimensional service offering.¹⁰ Californians will not be well served if basic service is defined in high cost areas to provide a lower grade of service than the "basic service" which is available in other areas of the state.

AT&T argues that the Commission should update the definition of basic service so that it is technology neutral, but that the Commission should do so "without extending its jurisdiction over these

¹⁰Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643, Decision No. 96-10-066, Rulemaking No. 95-01-020 (Filed January 24, 1995), Investigation No. 95-01-021 (Filed January 24, 1995). California Public Utilities Commission, 1996 Cal. PUC LEXIS 1046; 68 CPUC2d 524, October 25, 1996, pp. 460-461.

alternative technologies.”¹¹ It is not clear how the Commission could specify a definition of basic service that qualifies the winning bidder to receive CHCF-B monies without having “jurisdiction” over the service provider. If California ratepayer monies are to be transferred to a COLR, regardless of the technology utilized by the COLR the Commission must have sufficient jurisdiction to ensure that those monies are being used in a manner consistent with the objectives of the program. The bidders must participate in the auction process with the understanding that the Commission will have the ability to oversee the relevant elements of the operations of any service provider receiving CHCF-B monies.

The Commission should not set the quality and reliability of service expected of bidders based on the least common denominator, in this case very spotty service that requires some customers to stand outdoors to make and receive calls. TURN agrees that it would be desirable to have as many bidders as possible participate in a reverse auction process. But if the Commission establishes bidding criteria that lowers the quality of service available to customers it will have failed in its legal obligations. All bidders should be required to provide, at a minimum, the level of service to all customers that is available today.

III. AT&T’s ASSERTIONS REGARDING CPUC AUTHORITY IGNORE SPECIFIC RIGHTS AND RESPONSIBILITIES ACCORDED STATE COMMISSIONS.

In its opening comments AT&T addresses the concerns that arise when a carrier other than the ILEC is the winning bidder of an auction. In that instance, AT&T states that the Commission “has no authority to make ILEC facilities available to a competitor” as a matter of federal law.¹² However, AT&T’s statement is too broad. Notwithstanding the primer on preemption law in its comments, AT&T fails to discuss the areas where the Commission continues to maintain jurisdiction and authority. For

¹¹AT&T Comments, p. 10.

example, Congress very clearly left authority for the states to build and manage low income and rural assistance programs.¹³ It also provided for state authority in the area of interconnection.¹⁴ The Commission also maintains authority over the ILEC's intrastate tariffed services such as intrastate access services. While the Commission's rules covering these requirements cannot be in direct conflict with FCC decisions or other federal laws, including those on unbundling, there is no subject matter preemption such that the Commission is prevented from regulating in this area.

Not only does AT&T argue that the Commission would have no authority to adopt regulations to facilitate the auction process, it also argues that federal access requirements may no longer "make sense" in a post-auction scenario. Regardless of whether the Commission can adopt new regulations in this area, a potential bidder must be able to rely upon current ILEC access, unbundling and interconnection obligations in creating its service offerings. TURN finds no support for AT&T's assertion that ILECs will have "appropriate incentives" to negotiate a market-based commercial contract for facilities. As an incumbent carrier with control over existing facilities in the relevant serving area, the ILEC must be held to its current legal obligations. Section 251 places obligations on incumbent carriers precisely because it has control over those facilities that are necessary for competition. Section 251 has no exceptions for non-COLR ILECs, nor does it exempt an ILEC that chooses not to serve an area but still maintains control over its facilities. To further demonstrate Congressional concern over the ILEC bottleneck and its threats to universal service, Section 259 requires incumbent carriers to enter into infrastructure sharing arrangements with carriers designated as ETCs in a serving area. These and other obligations would clearly remain applicable regardless of the auction process.

¹² AT&T Comments, p. 16.

¹³ Section 254(f).

¹⁴ Section 251(d)(3).

Finally, AT&T suggests that the existence of a non-ILEC COLR may indicate that forbearance from 251 is appropriate and even that section 251 obligations should automatically attach to the winning bidder. While AT&T, or any ILEC, has a right to petition the FCC for forbearance and a transfer of its obligations under 251(h)(2), the winner bidder certainly should have no corresponding duty to enthusiastically support such a petition.¹⁵ Being designated as a COLR for a yet-to-be-defined geographic area is a far cry from “replacing” the ILEC in a particular market or even being considered “comparable to” the ILEC, both elements that are required under Section 251(h)(2). AT&T places an insurmountable barrier to the auction process when it suggests one of the *requirements* to bid in an auction should be the automatic agreement that forbearance is appropriate and the imposition of 251 requirements on the COLR be automatic. AT&T’s suggestion should be rejected.

IV. THE AUCTION PROCESS

A. The Commission Should Consider Adopting Time Warner’s Suggestion Regarding Wireline Packet Networks.

With respect to VoIP service providers as bidders, Time Warner states that the auction process should be limited to carriers deploying the packet networks, which are the facilities over which VoIP services are provided. Time Warner does not support non-facilities-based VoIP service providers (such as Vonage) receiving support. Time Warner points out that the underlying packet network facilities are costly and potentially require support. TURN believes that this proposal has merit. A service provider such as Vonage faces no cost differentials when providing service in areas where the costs of the

¹⁵ AT&T’s proposal that the winner bidder be “required” to support a forbearance petition invokes a memory of its predecessor, SBC, requiring CLECs such as Covad to support its bid for long distance authority by holding hostage interconnection and unbundling rights. The Commission rejected that strategy of coercion in 2001 as violation of the public interest and harmful to the regulatory process. AT&T’s proposal should similarly be rejected. (See, CPUC Reso. T-16522, October 25, 2001)

underlying packet network are higher, thus, there is no rationale whatsoever for “over-the-top” VoIP providers to receive support. Furthermore, reliability of the networks used to provide service is a key issue and will be incorporated into the requirements service providers will be subject to. If the bidder does not control the network over which service is provisioned it is not clear how the Commission could enforce reliability requirements.

B. Verizon’s Proposal Regarding the Carrier Nomination Process Raises the Potential for Applicants to Game the System.

Verizon’s proposal includes the possibility of service areas coming up for bidding as a result of a carrier nomination process. The Commission must be careful to prevent strategic behavior using affiliate relationships which could undermine universal service in high cost areas. For example, suppose an area was currently served by AT&T as the existing COLR receiving CHCF-B monies. If AT&T Wireless were to “initiate” an auction in a service area served by AT&T, and AT&T Wireless was the only competing bidder for the COLR, it is difficult to see how the auction bidding would be competitive, which might result in a relatively high level of subsidy being awarded to AT&T Wireless, should it be the “winning bidder.” However, AT&T the ILEC, while losing its COLR status and whatever subsidy it was receiving, would also be subject to a lower level of pricing oversight for basic service if price caps are lifted , and thus could also raise basic wireline rates.¹⁶ Thus, AT&T could game the system and raise its overall revenues by “transferring” its COLR obligations from its wireline to its wireless affiliate. While this example utilizes AT&T, any ILEC with a wireless affiliate could have similar potential.

¹⁶While the Commission determined that wireline and wireless service are substitutes, there is no question that they are not “perfect substitutes.” As a result, an ILEC with a wireless affiliate would be able to raise wireline rates with the confidence that a substantial number of its subscribers would not switch to other “intermodal” sources of supply. AT&T’s proposal to raise basic rates by 64% over a two-year period clearly reflects AT&T’s belief that most of its customers will not switch to other sources of supply.

C. Response to AT&T's Arguments Regarding Price Regulation in Supported Areas.

AT&T argues that:

Once the COLR has undertaken the obligation to provide service at or below the established rate cap, all other price regulation in the supported area – for that provider and all other providers – should cease.¹⁷

Clearly, the new COLR must be able to provide service to all consumers in the service area at the specified affordable rate prior to the lifting of price regulation. Otherwise the objectives of the CHCF-B will be undermined. During any transition period following an auction, the offerings of the ILEC must be subject to price constraint until the new COLR is able to provide service to all consumers in the area.

D. AT&T's Proposal Regarding The Term of COLR Right Would Undermine Future Competition.

AT&T indicates that the term of the COLR right should be between 10 and 15 years.¹⁸ This length of term may be appropriate for carriers that must make new investments, however, it is too long a term if the existing incumbent should be designated the COLR, either due to the lack of interest in the geographic area, or due to winning an auction. As the incumbent already has facilities in place, the investments associated with serving as COLR have already been made, and are likely to have been recovered in whole or in part. Thus, TURN's proposal for a term of 5 years is appropriate, as technology may change over time and result in entry by more efficient carriers. Protecting the incumbent for 15 years does not seem reasonable. TURN, in its comments recommended that non-incumbents be granted licenses for longer periods than incumbents—7 to 10 years. TURN is not opposed to exploring the possibility of a 15-year term for new COLRs.

¹⁷AT&T Comments, p. 5.

¹⁸AT&T Comments, p. 7.

E. Response to AT&T Arguments Regarding Reporting and Audit Requirements.

AT&T argues that:

Currently, there are no specific reporting or audit requirements to verify that a COLR is performing its obligations. To the extent an existing COLR or another established provider wins the auction in a particular area, no new requirements should be imposed.¹⁹

While there may be no specific audit of COLR performance, it is also true that the Commission previously imposed both tariffing requirements and service quality requirements on COLRs. While these requirements were not specifically directed at the receipt of CHCF-B funds, the fact that the Commission otherwise supervised rates and service quality obviated the need for specific COLR-oriented requirements. TURN believes that the Commission must verify that the COLR is keeping its promises with regard to the pricing and provision of the subsidized services, and as TURN pointed out in its Comments, this has been the practice in other nations where auctions have been used to subsidize payphone deployments.

AT&T argues that the Commission “should consider allowing existing providers to identify additional areas that require support and should be subject to an auction, and to present evidence demonstrating the need for support.”²⁰ TURN is not sure what AT&T envisions. The Commission must apply some sort of an objective standard to identify which areas should be subject to the auction process. The Commission could use existing cost measures based on the CPM, or update the cost estimates. However, AT&T appears to be proposing the application of carrier persuasion, which would supercede any cost-based standard. This should not be allowed.

F. Response to AT&T Proposal Regarding Geographic Areas Subject to Auction.

AT&T argues that the Commission should establish Census Block Groups as the “lowest

¹⁹AT&T Comments, p. 8.

common denominator” for the initial auction.²¹ It is not clear what AT&T means with the statement. Given the size of CBGs in the service areas of the four large California ILECs, it is not clear whether these areas are sufficient, in isolation, to support market entry by alternative providers. In TURN’s Comments, it was recommended that CBGs serve as the starting point for the definition of the geographic areas. However, it may be appropriate to aggregate CBGs into larger areas. These larger areas could be designed to match portions of the service areas of the ILECs. The Commission should carefully consider whether the creation of bidding areas without regard to the geographic boundaries associated with the ILECs will be worthwhile. For example, suppose an ILEC wire center in a high cost region of the state contains three CBGs. If bidding were on a CBG basis, and if an ILEC were to lose the bid for one of three CBGs, what post-auction complexity would arise? In addition, limiting the bidding areas to individual CBGs might create difficulties for bidders as the process of formulating a bid would likely become more complex as the number of bidding areas increased. While combinatorial bidding should be allowed, there is a need to balance the increases in complexity introduced due to a larger number of smaller areas being up for bid, with problems which might emerge due to a gerrymandered subsidy distribution to ILECs which might split existing wire centers or other currently integrated aspects of ILEC operations.

Verizon suggests that “qualified bidders themselves nominate areas for bidding.”²² This suggestion may have some merit as a means of identifying areas where auctions can be feasible, but the process must be based on the Commission’s determination that an area is actually high cost, and should not allow service providers to self-define new “high cost” areas, as is suggested by AT&T.

²⁰ AT&T Comments, p. 11.

²¹ AT&T Comments, p. 11.

²² Verizon Comments, p. 8.

V. THE COMMISSION SHOULD REJECT SPRINT'S CONTENTION THAT TRANSITIONAL RATE CAPS ARE UNNECESSARY.

Sprint/Nextel urges the Commission to adopt the “immediate and complete” lifting of price caps on ILEC basic service, arguing that the Commission “need not fear sudden and extraordinary increases in ILEC retail rates.”²³ The support for Sprint/Nextel’s proposal is contained in the Declaration of Chris Frentrup.

TURN responds in detail to Dr. Frentrup’s arguments in the attached Declaration of Trevor R. Roycroft. Sprint/Nextel’s suggestion that the Commission – and ratepayers – need not fear sudden and extraordinary increases in ILEC retail rates falls somewhere along a spectrum between naïve and delusional. Sprint/Nextel is apparently oblivious to the very prompt and large increases the ILECs applied to retail rates for services for which price caps have already been lifted.²⁴ In opening Comments, both TURN and DRA have presented ample reasons for the Commission to conclude that transitional rate caps are necessary to prevent rate shock. The Commission should reject Sprint/Nextel’s suggestion that transitional rate caps are not necessary.

VI. ROSEVILLE’S SUGGESTION THAT A \$36 RATE IS “AFFORDABLE” IS INCORRECT.

SureWest asserts that, in D.07-09-020, the Commission determined that \$36 per month for basic service is “reasonably comparable” to the rate for basic service charged to urban areas.²⁵ The Commission did no such thing. The text of the Commission’s Decision specified that the \$36 benchmark “is in no way intended to serve as a cap on basic rate levels, or as a determination that retail

²³ Sprint/Nextel Comments p. 26-27.

²⁴ D. 09-07-020, September 6, 2007, Appendix Table 2.

²⁵ SureWest Comments, p. 2-3.

rates for basic service alone as high as \$36 would be affordable.”²⁶ In response to a TURN Application for Rehearing, the Commission has since issued an Order Correcting Errors in Decision 07-09-020, in which it corrected language in Ordering Paragraphs 7 and 13(b) to ensure that they are consistent with this text.²⁷

Further, as TURN pointed out in both the previous phase of this proceeding and in its opening comments, the \$36 figure represents a national median cost comprising the rates paid by customers for all of the telecommunications services that they use. The nationwide median basic service rate, excluding the SLC and other taxes and surcharges, is \$14.25.²⁸ While, as both TURN and DRA pointed out, the Commission indicated in its URF Order that it would ensure that rates for basic service do not “trend above the current highest basic residential rate in the state,”²⁹ that rate, \$18.90, is nearly 25% higher than the nationwide median rate for basic service and no comfort for consumers. A \$36 rate would be an even more drastic threat to California’s long-standing commitment to universal service.

VII. USE OF, AND UPDATES TO, THE HM 5.3 COST MODEL.

AT&T’s position on the use of the HM 5.3 is not clear. For example, at some points AT&T discusses an “update process” for the HM 5.3,³⁰ and indicates that this update process may take long enough to allow for a pilot auction process to be completed.³¹ At other points AT&T indicates that no changes should be made to the HM 5.3.³²

AT&T states:

²⁶ D.07-9-020, p. 47.

²⁷ D.07-11-039, November 16, 2007.

²⁸ TURN Comments, p. 14.

²⁹ TURN Comments, p. 46, DRA Comments, p. 24.

³⁰ AT&T Comments, p. 11, p. 12.

³¹ AT&T Comments, p. 12.

³² AT&T Comments, pp. 19-20.

The Commission has already adopted reverse auctions as a method to avoid excessive subsidies. The cost amounts developed through HM 5.3 are merely a starting point in determining subsidy amounts. If the calculated subsidy amounts for any CBG are truly “excessive” in the real world – as opposed to being called excessive on paper by partisan advocates – service providers will quickly bid to become the carrier of last resort in that CBG, and competitive bidding will lower the subsidy amount to the minimum amount that service providers are willing to accept.³³

AT&T is correct that the cost levels, either developed through the HM 5.3 or some other method, are only the starting point. However, it does not necessarily follow that an absence of entry in an auction would indicate that existing subsidies are too low. As discussed in TURN’s Opening Comments, there may be reasons other than those suggested by AT&T for a lack of auction entry. Auctions create a strategic environment, and the design of the auction can have an impact on entry.

Furthermore, information missing in AT&T’s assessment of whether bidding will take place includes how basic service will be defined by the Commission. The technical requirements associated with the basic service offering will ultimately determine the cost of service borne by potential entrants. If the existing subsidy levels are developed by cost models like the HM 5.3, the results reflect a specific technology deployment---circuit-switched copper-based networks. Depending on how the Commission defines basic service, it may be that in some areas this network architecture is the least-cost means of providing basic service. Thus, the absence of entry may convey information other than that suggested by AT&T—because there is the potential for multiple technologies to be applied by bidders, the use of a cost model specific to circuit-switched copper distribution plant may reflect the least cost technology in some cases, and therefore discourage entry by other technology platforms.

With regard to the update of the cost model, AT&T indicates that it “is quite likely the update will reveal new high-cost areas that require support, and those areas would be excluded from the auction

³³ AT&T Comments, pp. 19-20.

if the Commission were to use the old cost proxies.”³⁴ While there is no doubt that application of a different cost model, the HM 5.3, could identify new “high cost” areas, it is not clear whether these areas should be qualified to receive subsidy. As AT&T also notes “if the existing COLR states that it is willing to remain the COLR in a high-cost CBG without any subsidy, that CBG should be removed from the auction.”³⁵ This is in fact exactly what has been happening under the existing CHCF-B program. That is, AT&T and the other ILECs have been serving some areas without subsidy under the existing CHCF-B regime, and there is no reason to now redefine this previous willingness to serve without subsidy into a need for subsidy. The areas where AT&T and the other ILECs have been serving without subsidy should not be “transformed” into new high cost areas simply because of the change of the cost model, as this would be an inappropriate gaming of the system.

Furthermore, AT&T elsewhere reinforces the argument against any substantial changes to the cost benchmarking process where it discusses reasons why AT&T indicates that the Commission should not “cap” cost results generated by the HM 5.3:

Any further adjustment or cap on HM 5.3 results – beyond the adjustment provided by the deregulatory auction process – would likely entail litigation regarding the amount of the adjustment or cap. At best, the time and effort involved would be unnecessary, because the reverse auction would reduce support anyway if a reduction is warranted.³⁶

This last point is critical for the Commission to understand—if the auction process can be properly designed, and if there are a sufficient number of auction entrants to enable competition, the “reserve prices” will play a very limited role in the overall auction. The dynamics of the bidding process, which is based on private information in the possession of the auction bidders, and which cannot be known with any certainty by the Commission, will determine the winning bids and the level of subsidy needed. The

³⁴AT&T Comments, p. 14.

³⁵AT&T Comments, p. 11.

“reserve prices” do not have to have a high degree of precision as there may be multiple technology platforms represented in the bidding process, and the results of either the CPM or HM 5.3 will likely to be irrelevant to most, if not all of the bidders, should competition in the bidding process actually emerge. Because of this fact, TURN recommends that the Commission expend as little effort as possible redoing cost models, and rely on existing information on costs, which may be imperfect, but which are also likely to be no worse than updated HM 5.3 results. Any cost information used to establish reserve prices will have a “shelf life” which will be short, if the auction process is properly designed and actual competition does emerge in the bidding process.

Verizon proposes to limit the support level associated with the bidding areas to be “no greater than the amount of support provided in that area prior to the auction.”³⁷ This suggested approach has merit and is consistent with TURN’s proposal to cap any adjustments to cost model results to be no greater than those associated with the existing CPM results. Verizon also indicates that the Commission could adjust the HM 5.3 and recalculate costs.³⁸ However, as Verizon’s discussion indicates, the process of updating HM 5.3 is likely to be complex, for example, in addition to updating input prices, Verizon raises issues relating to how customer locations will be established, and how cable routes will be mapped.³⁹

³⁶AT&T Comments, p. 15.

³⁷Verizon Comments, p. 10.

³⁸Verizon Comments, pp. 19-20.

³⁹Verizon Comments, p. 20.

VIII. CONCLUSION

For the reasons set forth above, and in our initial comments, we urge the Commission to adopt the positions described therein.

Dated: November 28, 2007

Respectfully submitted,

/S/

Regina Costa
Telecommunications Research Director
rcosta@turn.org

Christine Mailloux
Staff Attorney
cmailloux@turn.org

TURN
711 Van Ness Ave., Suite 350
San Francisco, CA 94102
Telephone: (415) 929-8876 ext. 312
Fax: (415) 929-1132
E-Mail: rcosta@turn.org

ATTACHMENT 1

**Declaration of Trevor R. Roycroft, Ph.D.
on behalf of The Utility Reform Network (TURN)**

**BEFORE
THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into)	
the Review of the California High)	RULEMAKING 06-06-028
Cost Fund B Program)	

Declaration

of

Trevor R. Roycroft, Ph.D.

on behalf of

The Utility Reform Network (TURN)

November 28, 2007

**BEFORE
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Order Instituting Rulemaking into)	
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Cost Fund B Program)	

Declaration of Trevor R. Roycroft, Ph.D.

I. Statement of Qualifications

1. My name is Trevor R. Roycroft and my business address is 51 Sea Meadow Lane, Brewster, MA, 02631. I am an independent consultant providing economic and policy analysis related to telecommunications, public utility, and information technology industries.

2. In June 1984 I received the Bachelor of Arts degree in Economics with a minor in Statistics from California State University, Sacramento. The degree was awarded with honors. In September of 1986 I received the Master of Arts degree in Economics from the University of California, Davis. In December of 1989 I received the Doctor of Philosophy in Economics from the University of California, Davis. My Ph.D. fields of specialization are Economic Theory, Industrial Organization, Public Sector Economics, and Economic History.

3. I have sixteen years experience in the telecommunications field. This experience began with my employment at the Indiana Office of Utility Consumer Counselor ("OUCC") during the years 1991 to 1994. For most of my tenure at the OUCC I was Chief Economist. My primary areas of analytical responsibility at the OUCC related to telecommunications regulation and policy. I have also been involved in higher education related to the telecommunications field. From 1994 to 2004 I was a professor in the J. Warren McClure School of Communication Systems Management at Ohio University. At Ohio University I was granted tenure and promoted to Associate Professor in the Spring of 2000. At Ohio University my primary areas of

teaching responsibility were graduate and undergraduate courses covering regulatory policy, the economics of the telecommunications industry, consumer issues with telecommunications markets, and telecommunications technology. I left Ohio University to pursue consulting on a full-time basis at the end of 2004, however, I have served as a part-time lecturer in the Telecommunication Systems Management program in the Graduate School of Engineering at Northeastern University in Boston, MA. At Northeastern I have conducted a seminar which evaluates telecommunications policymaking from a global perspective. I have published research on a variety of topics in the telecommunications field in refereed journals including *The Journal of Regulatory Economics*, *Contemporary Economic Policy*, and *Telecommunications Policy*. I have contributed chapters which have been published in volumes related to the telecommunications field. I have provided referee service to various academic journals including *The Journal of Regulatory Economics*, *Southern Economic Journal*, *Telecommunications Policy*, *Social Science Computer Review*, *Utilities Policy*, *Journal of Economic Studies*, and *Communications of the Association for Information Systems*. I have provided analysis and testimony as an independent consultant in the telecommunications field since 1994. In my role as a consultant, I have addressed a wide variety of issues associated with the telecommunications field. I have filed testimony, reports, and affidavits before state regulatory commissions, before the Federal Communications Commission, and before the Canadian Radio-Television and Telecommunications Commission. I have also provided expert services in class action lawsuits associated with the telecommunications field.

4. I have previously presented testimony before the Public Utilities Commission of the State of California (Commission). I filed a Declaration on behalf of TURN in the initial Phase of this proceeding, and assisted TURN with the preparation of its Comments which were filed on November 9, 2007. A complete listing of testimony is provided in my vita, which is

provided as Attachment TRR-1.

5. I have been asked by TURN to reply to the declaration of Chris Frentrup, which was filed by Sprint/Nextel with its November 9th Comments.

II. Response to Sprint/Nextel Declarant Frentrup

A. Dr. Frentrup and the Need for a Basic Rate Cap

6. Dr. Frentrup advances arguments which he alleges support the proposition that “it is unlikely that the ILECs in California will be able to raise their prices for retail local service if the cap is allowed to expire at the end of 2008.”¹ I have previously testified before this Commission that market forces in the residential market are not sufficient to effectively regulate prices. As I will discuss below, since the Commission lifted pricing constraints on ILEC services other than basic local exchange service, which remains subject to a cap, the evidence points to a failure of market forces to constrain price increases. The rate increases which have been pursued since the cap was lifted bear out the predictions which I made before this Commission when it considered whether to impose a Uniform Regulatory Framework in the large ILECs operating in the state.² Thus, I strongly disagree with Dr. Frentrup when he states that “The near-ubiquitous presence of multiple competitors offering substitutes for basic local

¹ Declaration of Chris Frentrup, pp. 7-8.

² See, for example, Reply Declaration of Trevor R. Roycroft in Rulemaking 05-04-005, paragraph 35:

There is ample evidence of continuing monopoly power in the Respondent ILECs’ service areas. . . .large numbers of Verizon and SBC residential consumers face market conditions consistent with the potential to exercise monopoly power. . . . Market forces capable of leveling the playing field between SBC or Verizon and their customers are not evident. Even in the portions of SBC and Verizon’s service area where there is some sign of competitive progress, there is ample evidence of continuing domination of the market by the ILEC. Imposition of a URF such as that proposed by the Commission in its Phase 1 Issue 10, or the variations on that theme offered by the Respondent ILECs, would result in insufficient regulatory oversight, especially for residential customers.

service will constrain the ILECs' pricing behavior for both stand-alone local service and bundles that include additional services."³ In fact, as will be discussed further below, the presence of "multiple competitors" to the extent they exist at all, has not been observed to constrain ILEC market power in California.

7. Dr. Frentrup's position is not supported by the pricing behavior of the ILECs. For example, AT&T has proposed, in its Comments in this Phase of the proceeding, to raise its rates for basic service by as much as 68%—from \$15.08 to as much as \$25.40, over a two-year period.⁴ This proposal reflects AT&T's confidence that competitive forces are not sufficient to limit these rate increases—otherwise, why make such a dramatic proposal? While Dr. Frentrup points to competition arising from traditional CLECs, wireless providers, over-the-top VoIP providers, and cable telephony providers, it is clear that AT&T does not believe that whatever level of competition is generated by these providers is capable of constraining a 68% basic-service rate increase over a two-year period. Dr. Frentrup states that "the more providers there are in the market, the greater is the elasticity of demand faced by any individual provider," and that this allegedly greater elasticity will limit an ILEC's "ability to raise its retail price to consumers."⁵ It is clear that the number of providers operating in California markets has not resulted in elasticity consistent with price constraint for AT&T and other ILECs.

8. Other evidence points to the insufficiency of market forces to reasonably constrain basic service rate increases. The Commission observed in the Final Order in the initial phase of this proceeding that where upward pricing flexibility has been granted to the ILECs,

³ Declaration of Chris Frentrup, pp. 7-8.

⁴ AT&T Comments, p. 22. AT&T indicates that its rates should be allowed to match the rates charged by other California ILECs, and identifies a price range of \$23.75 to \$25.40, to which AT&T indicates that its rates should transition over the two-year period.

⁵ Declaration of Chris Frentrup, p. 5.

they have taken advantage of that pricing flexibility and raised rates. As is shown in Appendix Table 2 of that Order, AT&T, Verizon, SureWest, and Citizens have all taken advantage of the pricing flexibility granted for individual service offerings. AT&T led the way with price increases which can only be called dramatic, both in their percentage terms, and their dollar magnitude. These rate increases were made in light of whatever “competitive forces” currently exist in California. These rate increases clearly illustrate the fact that competition is not providing much of a constraint on upward pricing.

9. Dr. Frentrup points out that ILEC rivals do not offer basic service on a stand-alone basis, rather, bundled service offerings are provided by wireless carriers, VoIP providers, and cable telephony firms. Dr. Frentrup states that these bundled service offerings will provide an effective constraint on ILEC basic service rates.⁶ Dr. Frentrup argues that:

These benefits will flow to customers who prefer to purchase stand-alone local service as well, as the ILECs’ ability to increase the prices for those services will be just as constrained as their ability to raise the price for bundles of services.⁷

However, evidence indicates that ILECs have not been constrained in the ability to raise bundle prices. For example, as noted by the Commission in the Final Order in the initial phase of this proceeding, Verizon raised its bundle prices by up to 19% during 2007.⁸ Service providers are quite frank about their attitudes toward price competition in the bundled-service product space. For example, AT&T’s position on price competition associated with its bundled U-verse offerings is summed up nicely in the following press report:

One topic that AT&T Inc., its partners and industry analysts all agree on is that the first focus on evolving U-verse must be on a combination of added features, applications and integration with other services (such as wireless to delivery on the three-screen vision).

⁶ Frentrup Declaration, ¶¶16-17.

⁷ Frentrup Declaration, ¶¶18.

⁸ Decision 09-07-020, September 6, 2007, Appendix Table 2.

The worst-case scenario, they agree, is for Tier-one telcos such as AT&T to make price competition with incumbent cable and satellite providers their primary battlefield. That, they said, would result in the devolution of IPTV along the lines of CD players, DVD systems, big screen TVs, PCs and more.

“The notion of competing just on price doesn’t make sense to us,” said Jeff Weber, AT&T’s vice president of product and strategy, who added that the company will not lead on price.⁹

It is likely that “competitive forces” in the bundled service market will drive bigger and more expensive bundles, and rival firms will shun price competition, thus enabling bundled service rate increases, which the Commission has already observed.

10. With regard to the claim that bundled prices will constrain basic service rates, Dr. Frentrop also overlooks the fact that ILECs also stand to capture a significant proportion of customer “switching” which might result from an ILEC raising basic rates. While Dr. Frentrop appears to believe that all voice services are perfect substitutes, this is simply not the case. Service offerings such as wireless and over-the-top VoIP have limitations which may make these “alternatives” much less attractive than the ILEC’s bundled service offerings. Thus, raising basic rates offers the ILEC multiple revenue increase opportunities. First, the ILEC which raises basic rates will expect to capture increased revenues from consumers who do not want the added features available in a more expensive bundle. Thus, some customers will pay the basic service rate increases imposed by the ILEC. Second, other basic service customers might get some value from bundled offerings, and might be inclined to consider the purchase of a bundled service if basic service rates rise. However, many of these customers will find that ILEC services can’t be easily abandoned for wireless or over-the-top VoIP (e.g., a consumer has an alarm service, or fax machine, or medical monitoring device—each of which requires basic

⁹ “Evolving the U-verse Ecosystem,” Xchange Magazine, January 22, 2007, emphasis added.
<http://www.xchangemag.com/articles/537/71h221146248404.html>

service; or the consumer observes that their cable video or broadband service is not very reliable and therefore does not like the idea of trying over-the-top or cable VoIP). Thus, the ILEC will reasonably expect that raising basic service rates will increase revenues from its bundled sales—the ILEC can “migrate” some basic service customers to bundles through basic rate increases. The fact that AT&T is proposing to increase its basic rates by 68% clearly indicates that AT&T does not expect to find that a large enough proportion of its customers will find rival bundled service offerings to be attractive—any customer loss will be offset by increased revenues from those customers who continue to buy basic service at the higher rates, or move up to a more expensive AT&T bundle.

11. Dr. Frentrup bases his claim that there is no need for a cap on the existence of multiple competing platforms, and alleges that the cable, VoIP, wireless, and traditional CLEC sources of supply will lead to demand elasticities which “constrain the ILEC’s ability to raise their retail prices.”¹⁰ The actual price increases which have occurred in the California market are not consistent with this claim. For ILEC’s to have raised both bundled and stand-alone service prices to the degree observed, it must be the case that consumers do not find reasonable substitutes, or that the ILEC’s rate increases are simply matched by their rivals—pointing to a lack of price competition. In either case, the rate increases reflect market power, which shows that markets are uncompetitive and rate caps continue to be appropriate.

12. Dr. Frentrup offers the Commission advice on how to address pricing in markets which are uncompetitive:

Even if retail competition is sufficiently strong to ensure that retail prices remain just and reasonable, the wholesale services that competitors must buy from the ILEC, such as access and interconnection, will remain uncompetitive. Thus, while Commission can lift

¹⁰ Frentrup Declaration, ¶¶ 6-14.

retail price constraints, it must continue to constrain interconnection and access prices.¹¹

Evidence points to retail competition as not having sufficient strength to constrain retail price increases, indicating an uncompetitive market. Thus, the regulatory approach which Dr. Frentrup argues should apply to the services which his firm purchases from the ILECs—price constraints—applies equally to retail basic service rates. It is good policy to constrain basic rates for stand-alone residential services, which, as TURN pointed out in its opening Comments in this Phase of the proceeding, most states continue to do.¹²

B. Dr. Frentrup on Deaveraging

13. Dr. Frentrup argues that there is no need for the Commission to be concerned regarding geographic deaveraging, and he points to the “competitive market experience” as evidence that deaveraging will not occur. Specifically, Dr. Frentrup argues that because wireless providers and VoIP providers do not deaverage their rates, that the Commission should expect such an outcome for basic service rates.¹³

14. Dr. Frentrup overlooks important facts which undermine his assertion. First of all, Dr. Frentrup confuses the impact of competition which may exist *within markets* for wireless services and over-the-top VoIP, which may be driving uniform pricing strategies, with the much more limited competition which is occurring between these platforms and the ILECs’ basic voice services. Given the continuing market power possessed by ILECs in markets for basic voice service, it is entirely reasonable to expect that ILECs may pursue geographic deaveraging, as they have done in other states, where deaveraged rates have been established under regulatory

¹¹ Frentrup Declaration, ¶10, footnote 14.

¹² TURN Comments, Appendix 1.

¹³ Frentrup Declaration, ¶21.

supervision.¹⁴ There is every reason to believe that basic rate deaveraging will be pursued by California ILECs, however, if basic rate caps are eliminated, unlike the geographic deaveraging which has occurred in other jurisdictions, there will be no regulatory supervision of ILEC deaveraging decisions.

15. Furthermore, while it may be true that wireless providers and over-the-top VoIP providers offer prices which do not vary by geography, that does not mean that consumers will pay prices across geographic regions which are the same, should they consider using these services. For example, to utilize an over-the-top VoIP provider the consumer must have a broadband connection. Broadband connections are less likely to be available in low density or rural areas, due to distance limitations associated with DSL, and lack of cable coverage. Dr. Frentrup's opinion regarding the ability of consumers to choose VoIP services is based on his opinion that broadband is "nearly ubiquitously available" to California consumers. Dr. Frentrup's conclusion is contradicted by the recent Proposed Decision of Commissioner Chong in the CASF proceeding, which states in the Findings of Fact that with regard to broadband, there are areas of California which are "underserved or not served at all." The Proposed Decision proposes to correct this "market failure" through a new subsidy program:

¹⁴ For example, in the state of Virginia, Verizon has tariffed 10 basic rate zones, with rates for flat-rate residential service ranging from \$10.80 to \$16.37. See, Verizon Virginia SCC Local Exchange Tariff No. 202.
https://retailgateway.bdi.gte.com:1490/viewdocact.asp?system_id=3826670&lib=TMPI_PCDP_LIB&doc=118146&checkout=false&fileExt=.PDF&Frameset=Created

In Indiana, AT&T has four rate zones, with flat-rate service prices ranging from \$9.75 to 11.51. See, Ameritech Indiana Tariff No. 20.
http://www.att.com/Large-Files/RIMS/Indiana/Tariff_No._20/in200402.pdf

In Texas, AT&T has eight rate zones, with flat rate service charges ranging from \$8.15 to \$11.05. See, AT&T Texas Local Exchange Tariff.
http://www.att.com/Large-Files/RIMS/Texas/Telco/Local_Exchange/tx-le-01.pdf

The funding of broadband infrastructure in high cost areas where there may be market failure may be the best way to take into account dramatic advances in telecommunications and information technologies and services, while ensuring the continued effectiveness of the universal service policies set forth by the Legislature.¹⁵

Thus, for some California consumers, the fact that an over-the-top VoIP provider offers the same price nationwide is irrelevant if they cannot obtain a broadband connection.

16. Alternatively, broadband offerings, where they are available in rural or low density areas may be much more expensive than they are in urban areas. For example, Goldrush World Access, which provides wireless broadband in the area around Angels Camp, charges prices which range from \$49.95 per month for a 384 kbps connection to \$109.95 per month for a 768 kbps connection.¹⁶ These prices are substantially higher than those available to urban consumers through a DSL connection. Assuming that these wireless connections could be used for over-the-top VoIP, a consumer would face a substantial rate increase if they were to abandon AT&T's basic service to pursue VoIP with this wireless broadband company as the broadband service provider charges much higher rates for broadband, and the consumer must purchase service from an over-the-top VoIP provider on top of the broadband charge.

17. Of course, the high prices for broadband, and lower availability, in rural areas leads to lower broadband subscription. While specific California data is not available, data available from the Pew Internet and American Life Project indicates that there is a significant difference between rural and urban broadband Internet usage nationwide, with 31% of rural adults having broadband at home, as compared with 52% for urban adults, and 49% for suburban adults.¹⁷ These statistics indicate that a much higher percentage of rural households would be

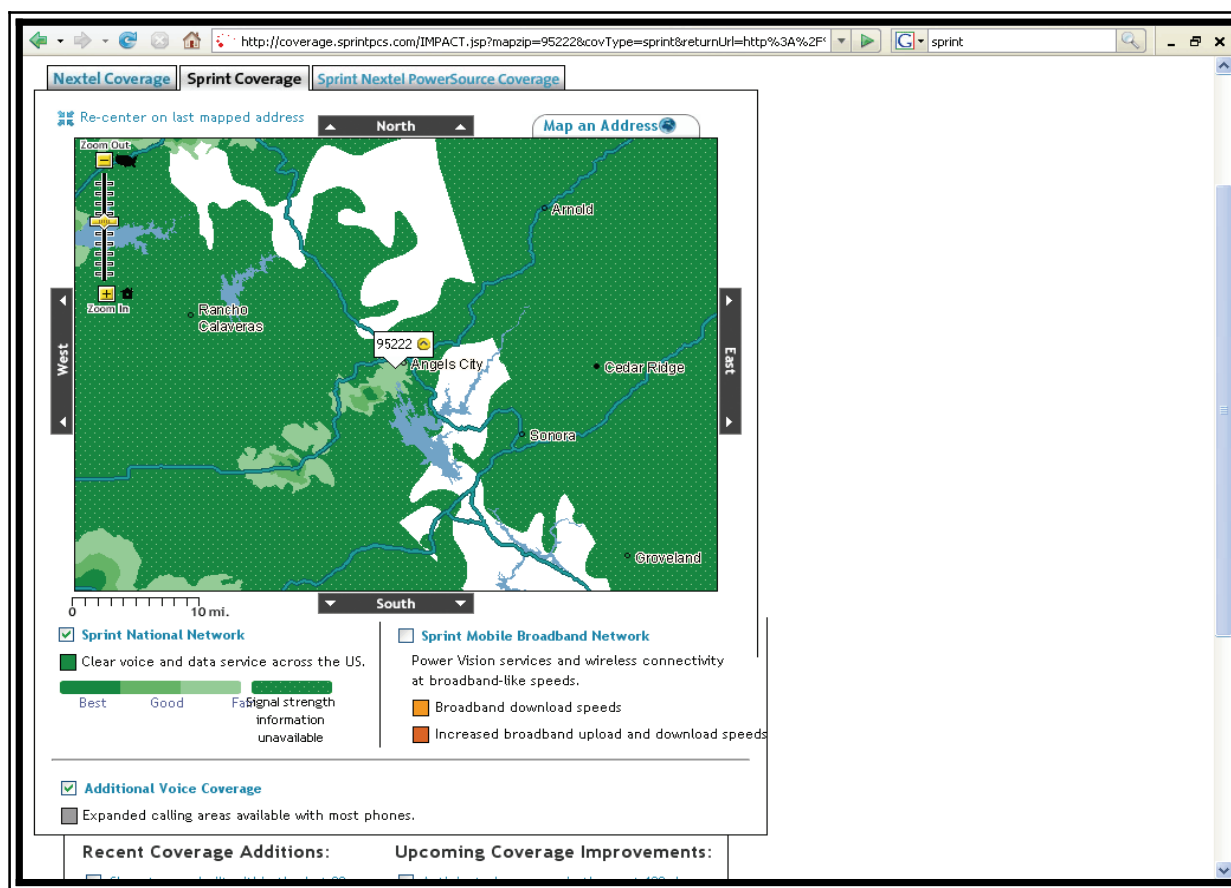
¹⁵ Proposed Decision of Commissioner Chong, *Interim Opinion Implementing California Advanced Services Fund*, November 20, 2007, pp. 45-46.

¹⁶ <http://www.goldrushwireless.com/pricing.html>

¹⁷ "Home Broadband Adoption 2007," Pew Internet & American Life Project, June (continued...)

confronted with the incremental cost of adding both a broadband connection *and* an over-the-top VoIP provider, should they consider abandoning the ILEC's basic service offering.¹⁸ Thus, rural residents, should they have broadband available, would be less likely to switch to VoIP, as the cost of doing so could be prohibitive.

18. Similarly, wireless providers, while perhaps offering nationwide or regional pricing plans, do not offer plans which offer equal value to consumers. Wireless coverage is notoriously poor in low density and rural areas. The inferior level of coverage and service



Sprint Coverage Map for Angels Camp

¹⁷(...continued)

2007. http://www.pewinternet.org/pdfs/PIP_Broadband%202007.pdf

¹⁸ The Pew reports also point to substantial differences in broadband adoption based on household income. In 2007, just 30% of households with income under \$30,000 per year have broadband. These households would also face the higher incremental costs of establishing over-the-top VoIP services.

quality results in consumers paying a relatively higher price for a wireless plan if they happen to reside in a rural area, as they do not receive the same service quality as those who reside in urban areas. For example, again focusing on the Angels Camp area, Sprint/Nextel's coverage is limited, as shown in the coverage map above.¹⁹ The dark green areas (with the "dots") which make up most of the area shown in the map indicate that Sprint has no information on signal strength, and thus does not offer any interpretation of what quality of service (if any) consumers can expect in those areas. Where Sprint has information on the quality of service in the area shown, for the largest portion of this area it indicates that users can expect the service to be "fair," which means "You should generally receive a signal strength sufficient to make calls outdoors, but typically not for calls in a car or in buildings."²⁰ Thus, for those consumers who value the ability to make a call indoors, or to make a call at all, the "uniform national price" offered by Sprint/Nextel or another wireless carrier will be of little relevance, as wireline basic service offered by the ILEC offers advantages which are not available at any price from Sprint/Nextel, or other wireless carriers.

19. Dr. Frentrup also argues that "all competitors" have a strong incentive to keep the price for getting on the network "low," so they can sell the consumer "additional services."²¹ It is certainly true that network providers attempt to sell additional services, as Dr. Frentrup points out. However, other than the ILECs, other providers do not offer stand-alone basic service, but

¹⁹ Of course, this coverage map is "promotional," and may be overly optimistic. For example, on a recent trip to Coloma, my T-Mobile phone could not get an outdoor signal. The T-Mobile coverage map available on that carrier's web site indicates that my signal should have been sufficient to make outdoor calls.

²⁰ Service description from:
<http://coverage.sprintpcs.com/IMPACT.jsp?mapzip=95222&covType=sprint&returnUrl=http%3A%2F%2Fnextelonline.nextel.com%2FNASApp%2Fonlinestore%2Fen%2FAction%2FDisplayPhones>

²¹ Fretrup Declaration, ¶22.

instead offer bundles.²² Thus, for service providers other than the ILECs, it appears that the “low” price is in fact considerably higher, and as a result the ability of a consumer to join an alternative network is more limited. The more limited ability to join an alternative network will result in an ILEC’s ability to raise prices, once again as evidenced by AT&T’s request for a 68% basic rate increase over two years.

C. Dr. Frentrup and Cost-Based Price Differences

20. Dr. Frentrup also argues, in spite of his claims that ILECs will not deaverage rates, that deaveraging may occur after all, if there should be differences in costs of service between urban and rural areas. Dr. Frentrup argues that holding prices in rural areas “artificially low” is harmful, and “will signal to potential competitive alternative providers of local service that there is little or no profit to be made by serving that area, resulting in less competitive entry.”²³ This statement is at odds Dr. Frentrup’s earlier claims that consumers throughout the state have the ability to choose from a variety of traditional CLECs, wireless carriers, cable firms, and “nearly ubiquitously available broadband.”²⁴ If current Commission policies which have promoted universal service in rural areas have discouraged entry, as Dr. Frentrup alleges, it cannot be the case that competitive forces are operative throughout the state, as Dr. Frentrup also claims.

21. Dr. Frentrup’s position on the need for subsidy in rural areas is extremely narrow and overlooks fundamental policy concerns, as well as Federal law. Dr. Frentrup states:

To the extent that it does cost more to provide service to an area, such as an outlying rural area, it is appropriate that prices charged to customers reflect that difference. In that way, customers can make the decision whether the benefits to them of living in a rural

²² Frentrup Declaration, ¶18

²³ Frentrup Declaration, ¶27.

²⁴ Frentrup Declaration, ¶¶6-9.

area outweigh its costs.²⁵

Dr. Frentrup apparently believes that there are too many individuals living in rural areas, and that economic development efforts in these areas would be assisted by driving out those consumers who are unwilling or unable to pay the full cost of telephone service. This logic ignores not only the economic development objectives of which the Commission may be concerned when it follows the statutory objectives associated with the CHCF-B, but also ignores the externalities which Dr. Frentrup's incomplete cost/benefit approach overlooks. For example, allowing basic telephone rates to cover their "full costs" will likely lead to some individuals continuing to live in rural areas, but dropping their telephone service. Individuals residing in California rural areas without telephone service are vulnerable, and the lack of telephone service may impose social and economic costs. The inability, for example, to call to report a brush fire, or to receive a reverse 911 call to evacuate could generate social and economic costs in the terms of life and property. Thus, ensuring that residential rates in rural areas are affordable, and reasonably comparable with those rates in urban areas is good policy, as well as the law of the land.²⁶

22. Dr. Frentrup also indicates that it is possible that some areas will experience high costs and high "competitive prices," which will negatively impact the "ability of customers in those areas to pay."²⁷ In these instances Dr. Frentrup argues that the Commission can rely on the "Lifeline and other social programs that assure that affordability is maintained. But it should be unnecessary generally to subsidize an entire network in an area."²⁸ This suggestion should be ignored by the Commission. It is not clear what benefits the Commission would gain by

²⁵ Frentrup Declaration, ¶24.

²⁶ See, for example, *Telecommunications Act of 1996*, §254(c).

²⁷ Frentrup Declaration, ¶26.

²⁸ *Id.*

reconstructing the ULTS program to address high-cost issues, as that is what the CHCF-B was created to do. Given that the Commission is pursuing the implementation of an auction process to support affordable rates in high cost areas, there is the potential to apply an innovative policy tool to the determination of the amount of subsidy needed to serve high cost areas, and, if the auction is properly structured, to minimize the amount of the subsidy.

III. Conclusion

23. Evidence indicates that the continued application of a cap on basic service rates is appropriate. The magnitude of price increases for basic rates suggested by AT&T, as well as documented rate increases for non-basic services where the cap has been lifted, indicate continuing market power. Given that the Commission is pursuing an auction process for CHCF-B funding, a rate cap is also an essential component of establishing the auction mechanism and encouraging competition through the auction process. Thus, caps on basic rates will serve the dual purpose of continuing to constrain market power, and furthering the Commission's objectives of establishing an auction mechanism to distribute CHCF-B funds.

Verification

The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 28, 2007 at Brewster, Massachusetts.

A handwritten signature in black ink, appearing to read 'Trevor R. Roycroft', with a stylized, cursive script.

Trevor R. Roycroft

Attachment TRR-1

Dr. Roycroft's Vita

Trevor R. Roycroft
51 Sea Meadow Lane
Brewster, MA 02631
508-896-0151
trevor@roycroftconsulting.org
www.roycroftconsulting.org

Education

Ph.D., Economics, University of California, Davis, 1989.

M.A., Economics, University of California, Davis, 1986.

B.A., Economics, with honors, California State University, Sacramento, 1984.

Ph.D. Fields of Specialization

Industrial Organization and Regulation

Public Finance

Economic History

Experience

Independent Consultant, June 1994 to present. Provides economic and policy research and analysis for clients. Presents expert testimony in state and federal venues. Performs economic and statistical studies of market conditions. Evaluates economic and policy issues in telecommunications and information technology industries. Develops economic and policy recommendations. Matters addressed include pricing plans, market structure analysis and competition, alternative regulatory frameworks, productivity growth, service quality, cost calculations, cost allocation, cost modeling, network unbundling, capital costs, wireless markets, economic damages, and broadband policy.

Lecturer, Fall 2006. Telecommunication Systems Management program in the Graduate School of Engineering at Northeastern University, Boston, MA. Conducts graduate seminar titled “Perspectives on Telecommunications Policy: Governments, Markets, and Technological Change.”

Associate Professor, J. Warren McClure School of Communication Systems Management, Ohio University, September 1994 to November 2004. Granted tenure, Spring 2000. Conducted graduate and undergraduate courses in regulatory policy and law, and the economics of the telecommunications industry, as well as general education courses covering telecommunications technology, markets, policy, and the social impact of communications technology. Conducted research with a focus on the telecommunications industry. Provided academic advising to graduate and undergraduate students within the school and across the university. Served on department, college, and university committees.

Interim Director, J. Warren McClure School of Communication Systems Management, Ohio University, July 2000 to June 2002. Responsibilities included: program planning, evaluation, and assessment; recruiting faculty and staff; managing fiscal resources; administering the School’s curriculum; and establishing and maintaining relationships with internal and external constituencies of the school.

Experience (continued)

Chief Economist/Acting Chief Economist/Assistant Chief Economist/ Principal Economist, Indiana Office of Utility Consumer Counselor, May 1991 to June 1994. Conducted research and prepared testimony, cross examination, and legal briefs to be presented before the Indiana Utility Regulatory Commission in major cases involving gas, water, electric, and telecommunications utilities. Prepared analysis and comments to be presented before the Federal Communications Commission. Advised Director of Utility Analysis and the Utility Consumer Counselor on policy issues; assisted in formulation of policy. Coordinated technical analysis in major cases. Presented agency policy positions to outside groups. Supervised Economics and Finance Staff of eight professionals. Reviewed and provided extensive analysis of Economics and Finance Staff testimony.

Visiting Assistant Professor, Kenyon College, September, 1989 to May, 1991. Conducted courses in Introductory Economics (Macro and Micro), Economics of the Public Sector, Industrial Organization, and Economic Development in the Third World. Rendered college service on award and hiring committees.

Lecturer, California State University, Sacramento, Fall 1987, academic year 1988. Conducted courses in Intermediate Microeconomic Theory, Introductory Macroeconomic and Microeconomic Theory.

Teaching Assistant, University of California, Davis, 1985-1988. Assisted the professor in conducting courses in Introductory Macroeconomic Theory, Introductory Microeconomic Theory, and Public Finance.

Publications

“E-Auctioning: The U.S. Federal Communications Commission and Spectrum Management.” Ari-Veikko Anttiroiko and Matti Malkia, eds. *Encyclopedia of Digital Government*, 2006.

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Publications, Continued

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“The Billy Goats Gruff. A Fairy Tale for the Third Anniversary of the Telecommunications Act of 1996.” *Info: The Journal of Policy, Regulation and Strategy for Telecommunications, Information and Media*, Volume 1, No. 2, April, 1999.

“A Dynamic Model of Incumbent LEC Response to Entry Under the Terms of the Telecommunications Act of 1996.” *Journal of Regulatory Economics*, Volume 14, November, 1998.

“Ma Bell’s Legacy: Time for a Second Divestiture?” *Public Utilities Fortnightly*. Vol 136, No. 12, June 15, 1998.

“The Telecommunications Act of 1996: An Unfunded Mandate for the States.” (With Phyllis Bernt.) *Central Business Review*, Volume XV, No. 2, Summer 1996.

Reports and White Papers

“Evaluating Telecommunications Trends: Commission Responsibilities in Evolving Markets.” Policy White Paper Prepared for the Public Counsel Section of the Washington State Office of Attorney General, September 5, 2007.

“Economic Analysis and Network Neutrality: Separating Empirical Facts from Theoretical Fiction,” May 2006. Available at: http://www.freepress.net/docs/roycroft_study.pdf

“Network Neutrality, Product Differentiation, and Social Welfare. *A Response to Phoenix Center Policy Paper No. 24.*” Roycroft Consulting Policy White Paper. May 3, 2006. Available at: http://www.roycroftconsulting.org/response_to_Ford.pdf

“Network Diversity—A Misguided Policy. A Response to Christopher S. Yoo’s ‘Promoting Broadband Through Network Diversity’.” Roycroft Consulting Policy White Paper. March 1, 2006. Available at: http://www.roycroftconsulting.org/response_to_Yoo.pdf

“Wireless Consumer Protection: A Model Bill for the States.” AARP Research Center, September, 2003.

“The End of Telecommunications? An Epilogue to Tangled Web: The Internet and Broadband Open Access Policy.” AARP Research Center, June, 2002. Available at: <http://www.aarp.org/research/technology/internetaccess/aresearch-import-123-2002-10.html>

“Tangled Web: The Internet and Broadband Open Access Policy.” AARP Research Center, January, 2001. Available at: <http://www.aarp.org/research/technology/internetaccess/aresearch-import-172-D17331.html>

Conference Papers

“The Impact of State and Federal Alternative Regulation Plans on the RBOCs--a State Level Analysis,” July 1999. Presented at the Western Economic Association International Annual Meeting, San Diego, California.

“The Billy Goats Gruff. A Fairy Tale for the Third Anniversary of the Telecommunications Act of 1996,” June, 1999. Presented at the Academic Seminar at the 1999 National Cable Television Association Convention, Chicago, Illinois.

“Alternative Regulation and the Efficiency of Local Exchange Carriers--Evidence from the Ameritech States.” November, 1998. Presented at the 68th Annual Conference of the Southern Economic Association, Baltimore, Maryland.

“A Dynamic Model of Incumbent LEC Response to Entry Under the Terms of the Telecommunications Act of 1996.” July 1998. Presented at the Western Economic Association International Annual Meeting, Lake Tahoe, Nevada.

“Do We have the Bugs Out of Telephone Deregulation?” April 1998. Presented at the Law and Policy Division of the Broadcast Education Association, Las Vegas, Nevada.

“The Telecommunications Act of 1996 and Imposed Costs in the Local Exchange Market: A Dynamic Model of Incumbent Behavior.” September 1997. Presented at the *Telecommunications Policy Research Conference*, Arlington Virginia.

“Towards an Advanced Information Infrastructure,” August 1995. Presented to the National Association of Regulatory Utility Commissions' Annual Regulatory Studies Program at Michigan State University.

“Sorting, Bonding, and Barriers to Entry: Strategies of the Entry Concerned Firm,” July 1990. Presented at the Western Economic Association Meetings, San Diego, California.

Additional Presentations

“Economics and Network Neutrality.” Presented at the 2006 Mid-year Meetings of the National Association of Utility Consumer Advocates. June 2006. Memphis, TN.

“Consumer Education and Telecommunications Competition.” Presented at the 2006 Mid-year Meetings of the National Association of Utility Consumer Advocates. June 2006. Memphis, TN.

“Broadband Open Access.” Presented to AARP’s National Legislative Council. October, 2000. Washington, D.C.

“Telecommunications Policy, Markets, and Regulation--Who’s On First?” Presented to the Maryland Office of Peoples’ Counsel and Maryland Public Service Commission. October, 2000. Baltimore, MD.

“Broadband Open Access--Implications for the Internet and Consumers.” November 1999. Panelist at the National Association of Utility Consumer Advocates Annual Convention. San Antonio, Texas.

Additional Presentations (Continued)

“Validation of Proxy Cost Models.” January 1997. Panel discussant at the Federal Communications Commission workshops on proxy cost models (CC Docket 96-45).

“Impact of the Telecommunications Act of 1996 on Telecommunications Managers.” December 1996. Presented to members of the *Association of Telecommunications Professionals*. Columbus Ohio.

“Caveat emptor! Local competition, possible effects on prices and the reality of choice.” October 1995. Presented at the Public Information Session on Telephone Competition. Dayton, Ohio.

“Cost Allocation in Network Industries,” August 1995. Presented to the National Association of Regulatory Utility Commissions' Annual Regulatory Studies Program at Michigan State University.

“Incremental Cost Methodology in Telecommunications,” June 1995. Presented to the Ohio Office of Consumers' Counsel.

“Regulatory Issues Connected with the Implementation of the Clean Air Act Amendments of 1990,” August 1993. Presented at the Indiana Bar Association's Utility Law Section Summer Meetings.

“Consumer Perspectives on the Ameritech Customer's First Plan,” August 1993. Presented at the Ameritech Regional Regulatory Committee Ad Hoc Working Group Meeting.

“Consumer Perspectives on Universal Telecommunications Service,” December 1992. Presented at the Indiana Utility Regulatory Commission Workshops on Regulatory Flexibility in Telecommunications.

Honors

Competitive paper finalist. The Academic Seminar at the 1999 National Cable Television Association Convention, Chicago, Illinois. Paper title: “The Billy Goats Gruff. A Fairy Tale for the Third Anniversary of the Telecommunications Act of 1996.”

Courses Taught

Perspectives in Telecommunications Policy:

Governments, Markets, and Technological Change *Northeastern University*

Competition and Market Structure in Network Industries, *Ohio University*

Communication Regulatory Policy, *Ohio University*

Applications of Common Carrier Regulation, *Ohio University*

Introduction to Common Carrier Regulation, *Ohio University*

Introduction to Communication Systems Management, *Ohio University*

Consumer Issues in Communication Systems Management, *Ohio University*

Topical Seminar (New Technologies and Telecommunication Policy), *Ohio University*

Topical Seminar (The Telecommunications Act of 1996), *Ohio University*

Courses Taught (Continued)

Special Studies in Communication Systems Management, *Ohio University*
Economics of the Public Sector, *Kenyon College*
Industrial Organization, *Kenyon College*
Economic Development in the Third World, *Kenyon College*
Intermediate Microeconomics, *California State University, Sacramento*
Microeconomic Principles, *Kenyon College; California State University, Sacramento*
Macroeconomic Principles, *Kenyon College; California State University, Sacramento*

Service

Faculty Advisor, University College, *Ohio University*, 1998-2004
Member, Baker Fund Committee, *Ohio University*, 2003-2004
Member, College of Communication Curriculum Committee, *Ohio University*, 2003-2004
Chair, College of Communication Dean's Evaluation Committee, *Ohio University*, 2003-2004
Faculty Advisor, Communication Week, *Ohio University*, 1994-2002
Faculty Advisor, Students in Communication Systems Management, *Ohio University*, 1994-1996
Member, University General Education Review Committee, *Ohio University*, 1998-1999
Member, College of Communication Curriculum Committee, *Ohio University*, 1998-2000
Member, College of Communication Graduate Committee, *Ohio University*, 1997-2002
Member, University Calendar Review Task Force, *Ohio University*, 1996-1997
Member, Outstanding Civil Service Award Committee, *Ohio University*, 1995-1996
Member, Mathematics Department Search Committee, *Kenyon College*, 1990-1991
Member, Williams Memorial Award Committee, *Kenyon College*, 1989-1991

Professional Membership

American Economic Association

Ph.D. Dissertation Supervision

"The Examination of Strategic Interactions in One Local Access Telephone Market, the Effects on Expected Price for Access and Universal Access." Judith Ann Molka-Danielsen. School of Information Sciences, Telecommunications Program, University of Pittsburgh, 1998.

Referee Service

Journal of Regulatory Economics
Telecommunications Policy
Southern Economic Journal
Social Science Computer Review
Utilities Policy
Journal of Economic Studies
Communications of the Association for Information Systems

Expert Testimony Presented

California (On behalf of The Utility Reform Network [TURN])

<u>PUCC Cause No.</u>	<u>Title</u>	<u>Topic</u>
Rulemaking 05-04-005 (March 30, 2007)	Order Instituting Rulemaking to Assess and Revise Regulation of Telecommunications Utilities	Post-deregulation monitoring.
Rulemaking 06-06-028 (October 16, 2006)	Review of the California California High Cost Fund B Program	Approaches to Calculating High Cost Funding.
Rulemaking 06-05-028 (September 15, 2006)	Review of Telecommunications Public Policy Programs	Affordability of Basic Service.
Application: 05-04-020 (August 15, 2005)	Verizon/MCI Merger	Market Structure and Market Power.
Rulemaking 05-04-005 Direct Declaration (May 31, 2005) Reply Declaration (September 2, 2005)	Order Instituting Rulemaking to Assess and Revise Regulation of Telecommunications Utilities	Local exchange Competition and Policy.
Applications: 01-02-024, 01-02-035 02-02-031, 02-02-032 02-02-034, 02-03-002 (February 7, 2003) Reply Declaration (March 12, 2003) Rebuttal Declaration	Review of UNE Rates	TELRIC Compliance of UNE Rates. Progress of local exchange competition.
Rulemaking 93-04-003 Investigation 93-04-002 (Phase II) (July, 2001)	Permanent Line Sharing Phase II	Pricing and Cost Allocation for the High Frequency Portion of the Local Loop in the NGDLC Environment.

California (On behalf of The Utility Reform Network [TURN]) Continued.

<u>PUCC Cause No.</u>	<u>Title</u>	<u>Topic</u>
Rulemaking 93-04-003 Investigation 93-04-002 (Phase I) (June, 2001)	Permanent Line Sharing Phase I	Pricing and Cost Allocation for the High Frequency Portion of the Local Loop.

**Canadian Radio-Television and Telecommunications Commission
(On Behalf of Action Réseau Consommateur, et al.)**

<u>CRTC Case No.</u>	<u>Title</u>	<u>Topic</u>
Public Notice CRTC 2006-5 (July, 2006)	Review of Price Cap Framework	Price Cap Plan, Productivity and Advanced Services, Competition.
Public Notice CRTC 2001-37 (August, 2001)	Price Cap Review and Related Issues	Price cap regulation and productivity growth. Accommodative entry policy.

Colorado (On behalf of AARP)

<u>CPUC Docket No.</u>	<u>Title</u>	<u>Topic</u>
04A-411T (February, 2005)	In the Matter of Qwest Corporation Application	Analysis of local exchange market. For Service Reclassification and Deregulation.

Indiana (On behalf of the AARP and Citizens Action Coalition of Indiana)

<u>IURC Cause No.</u>	<u>Title</u>	<u>Topic</u>
42405 (October, 2003)	SBC Indiana's Request for Alternative Regulation	Analysis of local competition, Price Cap Regulation and Productivity.
41911 (July, 2001)	Commission's Investigation of Ameritech Indiana Service Quality	Service Quality Performance.
40785-S1, 40849, 41058 (January, 2001)	Approval of Settlement Agreement between Ameritech and other Parties	Alternative Regulation, Advanced Services Deployment, Service quality, Alternative Regulation.

Indiana (On behalf of the AARP and Citizens Action Coalition of Indiana, continued)

<u>IURC Cause No.</u>	<u>Title</u>	<u>Topic</u>
41058 (August, 2000)	Agreement between Ameritech And other Parties	Cost of Service, Cost Modeling, Compliance with §254(k) of the Telecommunications Act of 1996.
40785-S1 (September, 1999)	Commission's Investigation Ameritech Indiana's Compliance With Section 254(k) of the Telecommunication Act	Economic Cost of Service/ Cost Allocation.
40849 (November, 1997)	Commission's Own Motion On Ameritech Indiana's Request for Interim Relief	Interim and Permanent Alternative Regulation/Rate Design.
40849 (September, 1997)	Ameritech Indiana Request for Interim Relief	Interim Alternative Regulation/Rate Design.

Kansas (On behalf of the Citizens' Utility Ratepayer Board [CURB])

<u>KCC Docket No.</u>	<u>Title</u>	<u>Topic</u>
05-SWBT-997-PDR (May, 2005)	In the Matter of SWBT's Application for Price Deregulation of Certain Residential and Business Services	Analysis of local exchange market.

Maryland (On behalf of the Maryland People's Counsel)

<u>MPSC Docket No.</u>	<u>Title</u>	<u>Topic</u>
8730 (Rebuttal Testimony) (November, 1996)	Bell Atlantic ISDN Tariff Proposal	ISDN pricing and cost of service.
8730 (Direct Testimony) (October, 1996)	Bell Atlantic ISDN Tariff Proposal	ISDN pricing and cost of service.

Maryland (On behalf of the Maryland People's Counsel, continued.)

<u>MPSC Docket No.</u>	<u>Title</u>	<u>Topic</u>
8715 (Rebuttal Testimony) (April, 1996)	MCI Request for Alternative Regulation for Bell Atlantic Maryland	Price Cap Regulation, Cost Allocation and Loop Cost Recovery.
8715 (Direct Testimony) (March, 1996)	MCI Request for Alternative Regulation for Bell Atlantic Maryland	Price Cap Regulation, Cost Allocation and Loop Cost Recovery.

Ohio (On behalf of the Ohio Consumer's Counsel)

<u>PUCO Case Nos.</u>	<u>Title</u>	<u>Topic</u>
06-1013-TP-BLS (October, 2006)	AT&T Bell Request for Alternative Regulation For Basic Local Exchange	Competition for Basic Local Exchange Service.
06-1002-TP-BLS (September, 2006)	Cincinnati Bell Request for Alternative Regulation For Basic Local Exchange Service	Competition for Basic Local Exchange Service.
05-13050TP-ORD (December, 2005) (March, 2006)	Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service.	Existence of entry barriers. Appropriate competitive test.
02-1280-TP-UNC (May, 2004)	SBC Ohio's TELRIC Costs for Unbundled Network Elements	TELRIC cost modeling, Local Competition.
98-1082-TP-AMT (December, 1998)	SBC/Ameritech Request for Approval of Merger	Sharing of cost saving. Total factor productivity growth.
96-899-TP-ALT (December, 1997)	Cincinnati Bell Alternative Regulation	Price Cap Regulation/ Rate Rebalancing/ Rate Design.

Ohio (On behalf of the Ohio Consumer's Counsel, continued.)

<u>PUCO Case Nos.</u>	<u>Title</u>	<u>Topic</u>
94-2019-TP-ACE (May, 1995)	MFS INTELENET	Financial, Managerial, and Technical Ability to Provide Local Exchange Service.
93-487-TP-ALT and 93-576-CSS (September, 1994)	Ohio Bell: Alternative Regulation	Incremental Costs/ Fully Distributed Costs/ Alternative Regulation.

Virginia (On behalf of Consumer Counsel Section of the Virginia Office of Attorney General)

<u>SCC Docket No.</u>	<u>Title</u>	<u>Topic</u>
PUC-2007-00008 (June, 2007)	Verizon Petition for Deregulation and Detariffing	Local Exchange Competition; Market Analysis.

Washington (On behalf of Public Counsel Section of the Washington Attorney General)

<u>WUTC Docket No.</u>	<u>Title</u>	<u>Topic</u>
UT-050814 (September, 2005)	Verizon/MCI Merger	Market Structure and Market Power. Merger Conditions.

Indiana (On behalf of the Indiana Consumer Counselor)

<u>IURC Cause No.</u>	<u>Title</u>	<u>Topic</u>
40611 (June, 1997)	Ameritech Indiana Approval of Statement of Generally Available Terms	Analysis of TELRIC studies.
39853 (March, 1994)	Teleport Communications Group of Indiana, Inc.	Authority to provide intraLATA and interLATA Private Line Services.
39705 (January, 1994)	Indiana Bell Telephone	Alternative Regulation/ Competition/Infrastructure Deployment/Imputation.

Indiana (On behalf of the Indiana Consumer Counselor) Continued.

***Testimony prepared, but not filed due to case settlement.**

<u>IURC Cause No.</u>	<u>Title</u>	<u>Topic</u>
39474 (May, 1994)	Indiana Payphone Association v. Indiana Bell Telephone	Imputation/separate subsidiary.
39755 (September, 1993)	GTE North Inc./GTE Intelligent Network Service Inc.	Divestiture of Assets/Policy.
39718 (August, 1993)	Ameritech Advanced Data Services	Affiliate Relationships.
39475 (March, 1993)	Indiana Payphone Association	Dial-Around Compensation.
38269-S4 (February, 1993)	IntraLATA Toll Compensation	Toll Rate Deaveraging.
39369 (February, 1993)	IURC Investigation into Access Charge Parity	Access Charge Parity/Recovery of Non-Traffic-Sensitive Costs/Policy.
39618 (January, 1993)	IURC Investigation into Special Access Collocation	Collocation Policy.
39385 (October, 1992)	Indiana Bell Telephone: Competition and Pricing Flexibility	Evaluation of Competition in Dedicated Communications Market/Policy.
39353*	Indiana Gas Company	Temperature Normalization Tracker/Demand Side Management/Reproduction Cost of Rate Base/Capital Costs.
39314 (September, 1992)	Indiana Michigan Power Co.	Clean Air Act Amendments /Demand Side Management.
39221 (January, 1992)	American Telecommunications Corporation	Financial Viability.

Indiana (On behalf of the Indiana Consumer Counselor) Continued.

***Testimony prepared, but not filed due to case settlement.**

<u>IURC Cause No.</u>	<u>Title</u>	<u>Topic</u>
39215 (January, 1992)	Indiana American Water Co.	Reproduction Cost of Rate Base/Capital Costs.
39166 (November, 1991)	Indiana Cities Water Co.	Reproduction Cost of Rate Base/Capital Costs.
39164/39165 (October, 1991)	Ohio Valley Gas Corp.	Reproduction Cost of Rate Base/Capital Costs.
39017*	IURC Investigation into Indiana Bell Earning	Reproduction Cost of Rate Base/Capital Costs.

Comments Filed

California Public Utilities Commission (On Behalf of TURN)

Order Instituting Rulemaking into the Review of The California High Cost Fund B Program. (Auctions for Universal Service Funding. With Regina Costa and Christine Mailloux. November 9, 2007.)

Federal Communications Commission (On Behalf of Consumer Federation of America, Consumers Union, Free Press, US PIRG).

In the Matter of Broadband Industry Practices. WC Docket No. 07-52. (Supporting documents attached to Comments. June 15, 2007.)

Federal Communications Commission (On Behalf of Consumer Federation of America, Consumers Union, Free Press, US PIRG).

In the Matter of AT&T Inc. and BellSouth Corporation Applications for Approval of Transfer Of Control, WC Docket No. 06-74. (June 6, 2006.) With Mark Cooper.

Federal Communications Commission (On Behalf of National Association of Utility Consumer Advocates)

In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45. Affidavit addressing application of forward-looking economic cost methodology to rural ILECs with 100,000 or more access lines. (December 14, 2004.)

Comments Filed (Continued)

Federal Communications Commission (On behalf of AARP)

In the Matter of Inquiry into High-Speed Access to the Internet Over Cable and Other Facilities. GN Docket No. 00-185, FCC No. 00-355. "Tangled Web: The Internet and Broadband Open Access Policy." (January 10, 2001).

Indiana Utility Regulatory Commission (On behalf of the Indiana Consumer Counselor)

A Comprehensive Approach to Local Exchange Competition in Indiana (October, 1995).

Indiana Utility Regulatory Commission (On behalf of the Indiana Consumer Counselor)

Comments of the Office of the Office of Utility Consumer Counselor to the Telecommunications Regulatory Flexibility Committee (1993).

New York Public Service Commission (On behalf of Independent Telephone Companies [NYNEX and Rochester excluded])

Proceeding on Motion of the Commission to Examine Issues Related to the Continued Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market: "Comments on Compensation Arrangements Related to Module 2" (April, 1995).

Maine Public Service Commission (On behalf of Independent Telephone Companies [NYNEX excluded])

Inquiry Into the Provision of Competitive Telecommunications Services (Chapter 280), Docket 94-114: "Reply Comments to the Preliminary Proposal for a Revision and Restructuring of the Access Charge Provision of Chapter 280" (June, 1995).

Federal Communications Commission (On behalf of the Indiana Consumer Counselor)

Comments of the Indiana Office of Utility Consumer Counselor on the Ameritech Customers First Plan (1993).

Reply Comments of the Indiana Office of Utility Consumer Counselor on the Ameritech Customers First Plan (1993).

Civil Litigation

Baxter Air, Inc., and for all others similarly situated, Plaintiffs, v. NOS Communications, Inc., NOSVA Limited Partnership, Affinity Network, Inc., Robert A. Lichtenstein, and Joseph T. Koppy, Defendants. In the Superior Court of the State of Washington in and for the County of King. Declaration, July 2007.

Brooke Randolph and John Girad, et al, Plaintiffs, v. AT&T Wireless Services Inc., et al. Superior Court of the State of California in and for the County of Alameda, Unlimited Jurisdiction. Declaration, February 12, 2007. Reply Declaration, April 25, 2007.

Civil Litigation (Continued)

Christopher W. Hesse, Plaintiff v. Sprint Spectrum L.P., Defendant. Nathaniel Olson, Plaintiff v. Sprint Spectrum L.P., et al v. Sprint Spectrum L.P. et al. United States District Court Western District of Washington at Seattle. Declaration, April 30, 2007.

Dawn M. Black, et al, Plaintiffs, v. Indiana Bell Telephone Company, Inc. d/b/a Ameriech Indiana. State of Indiana, Marion County Superior Court. Analysis and litigation support. 2006-2007.

Robert Young, et al, Plaintiffs, v. United Telephone of Indiana, Inc. *d/b/a* Sprint. State of Indiana, Marion County Superior Court. Analysis and litigation support. 2003-2004.

Mark Webber, et al, Plaintiffs, v. Indiana Bell Telephone Company, Inc. d/b/a Ameriech Indiana. State of Indiana, Marion County Superior Court. Analysis and litigation support. 2003-2004.

November 2007

CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On November 28, 2007 I served the attached:

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE ASSIGNED COMMISSIONER'S RULING
REGARDING THE SCOPE AND SCHEDULING OF PHASE II ISSUES**

on all eligible parties on the attached lists to **R.06-06-028**, by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this November 28, 2007, at San Francisco, California.

/S/

Larry Wong

Service List for R.06-06-028

Aloa.Stevens@frontier.com	aba@cpuc.ca.gov
anitataffrice@earthlink.net	alk@cpuc.ca.gov
beth.fujimoto@cingular.com	dgw@cpuc.ca.gov
bnusbaum@turn.org	gtd@cpuc.ca.gov
cborn@czn.com	jjs@cpuc.ca.gov
cindy.manheim@cingular.com	kar@cpuc.ca.gov
cmailloux@turn.org	lah@cpuc.ca.gov
david.discher@att.com	ma1@cpuc.ca.gov
deyoung@caltel.org	ncl@cpuc.ca.gov
don.eachus@verizon.com	ndw@cpuc.ca.gov
douglas.garrett@cox.com	nxb@cpuc.ca.gov
elaine.duncan@verizon.com	psp@cpuc.ca.gov
ens@loens.com	rwc@cpuc.ca.gov
esther.northrup@cox.com	rwh@cpuc.ca.gov
general@dralegal.org	tch@cpuc.ca.gov
jacque.lopez@verizon.com	trp@cpuc.ca.gov
jclark@gmssr.com	
jesus.g.roman@verizon.com	
joe.chicoine@frontiercorp.com	
john.frentrup@sprint.com	
jwiedman@goodinmacbride.com	
katienelson@dwt.com	
Kristin.L.Jacobson@sprint.com	
ksaville@czn.com	
ll@calcable.org	
lmb@wblaw.net	
marcel@turn.org	
mcf@calcomwebsite.com	
michael.foreman@att.com	
mmattes@nossaman.com	
mp@calcable.org	
mschreiber@cwclaw.com	
mshames@ucan.org	
mtobias@mlawgroup.com	
pcasciato@sbcglobal.net	
peter.hayes@att.com	
PHILILLINI@aol.com	
pucservice@dralegal.org	
randy.chinn@sen.ca.gov	
rcosta@turn.org	
rudy.reyes@verizon.com	
scratty@adelphia.net	
smallecs@cwclaw.com	
Stephen.h.Kukta@sprint.com	
suzannetoller@dwt.com	
thomas.selhorst@att.com	
tlmurray@earthlink.net	
trevor@roycroftconsulting.org	